

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/669,610
Inventor(s) : Ivano Gagliardi et al.
Filed : September 23, 2003
Art Unit : 3761
Examiner : Melanie Jo Hand
Docket No. : CM2699
Confirmation No. : 5608
Customer No. : 27752
Title : AN ABSORBENT ARTICLE COMPRISING AN
ABSORBENT ELEMENT COMPRISING A LIQUID
ABSORBENT THERMOPLASTIC COMPOSITION

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on November 6, 2007.

A timely Notice of Appeal was filed on January 8, 2007.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1-3, 5-7, 9, 11, 12, 14, 15, 19-21, 23-25, and 31 are pending in the present application.

Claims 1-3, 5-7, 9, 11, 12, 14, 15, 19-21, 23-25, and 31 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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STATUS OF AMENDMENTS

No amendment was filed subsequent to the response dated August 16, 2007.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 is an absorbent article. (see e.g. page 6, lines 3-24, Figures 1-9). The absorbent article comprises a topsheet 1. (see e.g. page 11, lines 10-15, page 25, lines 9-27, Figure 2). The absorbent article comprises a backsheet 5. (see e.g. page 11, lines 10-15, page 26, lines 26-32, and Figure 2). The absorbent article comprises an absorbent element positioned between the topsheet and the backsheet (see e.g. page 5, lines 16-18, page 7, lines 11-17, Figure 2). The absorbent element comprises a fluid storage layer comprising a liquid absorbent thermoplastic composition (see e.g. page 8, lines 15-18, page 6, lines 3-5, Figure 2). The liquid absorbent thermoplastic composition comprises a polymeric base material having particles of water-insoluble water swellable absorbent material dispersed therein. (see e.g. page 5, lines 16-23, page 8, lines 15-18, page 12, lines 26-28). The liquid absorbent thermoplastic composition has a total absorption capacity of at least 2 grams per gram. (see e.g. page 11, line 32 to page 12, line 2). The liquid absorbent thermoplastic composition is configured in a plurality of unattached spaced apart zones. (see e.g. page 5, lines 16-23, page 8, line 26 to page 9, line 8, Figures 3-9). Immediately adjacent unattached spaced apart zones are spaced apart from each other by a distance between 0.5 mm and 10 mm. (see e.g. page 10, lines 18-20).

Claim 19 is an absorbent article. (see e.g. page 6, lines 3-24, Figures 1-9). The absorbent article comprises a topsheet 1. (see e.g. page 11, lines 10-15, page 25, lines 9-27, Figure 2). The absorbent article comprises a backsheet 5. (see e.g. page 11, lines 10-15, page 26, lines 26-32, and Figure 2). The absorbent article comprises an absorbent element positioned between the topsheet and the backsheet (see e.g. page 5, lines 16-18, page 7, lines 11-17, Figure 2). The absorbent element comprises a liquid absorbent thermoplastic composition (see e.g. page 8, lines 15-18, page 6, lines 3-5, Figure 2). The liquid absorbent thermoplastic composition comprises a polymeric base material having particles of water-insoluble water swellable absorbent material dispersed therein. (see e.g. page 5, lines 16-23, page 8, lines 15-18, page 12, lines 26-28). The liquid absorbent

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thermoplastic composition represents at least 15% by weight of the total weight of the absorbent element. (see e.g. page 5, lines 16-23, page 12, lines 17-19). The liquid absorbent thermoplastic composition is configured in a plurality of unattached spaced apart zones. (see e.g. page 5, lines 16-23, page 8, line 26 to page 9, line 8, Figures 3-9). Immediately adjacent unattached spaced apart zones are spaced apart from each other by a distance between 0.5 mm and 10 mm. (see e.g. page 10, lines 18-20).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-3, 5-7, 9, 11, 12, 14, 15 19-21, 23-25, and 31 stand rejected under 35 U.S.C. § 103(a) over Luizzi (EP 1 013 291) and are requested to be reviewed on appeal.

ARGUMENTS

Claims 1 and 19

Claims 1 and 19 were rejected under 35 U.S.C. § 103(a) over Luizzi (EP 1 013 291). The Applicants respectfully traverse the rejection. Luizzi, as cited in the Office Action, fails to teach, suggest, or motivate one skilled in the art to provide spaced apart zones that are spaced apart from each other by a distance between 0.5 mm and 10 mm.

The Office Action cites to Figure 3 of Luizzi for a liquid absorbent thermoplastic adhesive comprised of a plurality of spaced apart, unattached zones. Figure 3 of Luizzi illustrates the absorbency zone 350 as a single rectangular zone, with the cross-hatching apparently drafted to visibly distinguish the absorbency zone 350 against the cover layer 310. Paragraph [0023] of Luizzi describes Figure 3 and states that the “[l]iquid absorbing hot melt adhesive 40 is zone coated in absorbency zone 350 in a substantially rectangular pattern.” Emphasis Added. A substantially rectangular pattern is not a plurality of spaced apart, unattached zones, as claimed in Claims 1 and 19 of the resent application.

The Office Action further cites to Figure 6 of Luizzi for a liquid absorbent thermoplastic adhesive comprised of a plurality of spaced apart, unattached zones. Luizzi, as cited, does not disclose the spacing between lines of the adhesive composition in Figure 6. The Office Action states that “[t]he distance of separation between zones is considered to be a result-effective variable since such distance is limited by the width of the article taught by Luizzi.” The Applicants submit that the basis in the Office Action

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for identifying the separation between zones as a result-effective variable is insufficient in that the Office Action does not identify what the recognized result is. Under *In re Antonie*, 559 F.2d 618 (CCPA 1977), a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. The Office Action does not identify the recognized result of altering spacing between zones.

Based on the above, the Applicants submit that Claims 1 and 19 are allowable, under 35 U.S.C. § 103(a), over Luizzi. The Applicants respectfully request that Claims 1 and 19 be allowed on appeal.

Claims 2, 5-7, 11, 12, 14, 15, 20, 23-25, and 31

Claims 2, 5-7, 11, 12, 14, 15, 20, 23-25, and 31 were rejected under 35 U.S.C. § 103(a) over Luizzi. Claims 2, 5-7, 11, 12, 14, and 15 depend upon Claim 1 and Claims 20, 23-25, and 31 depend upon Claim 19. As discussed above, the Applicants submit that Claims 1 and 19 are allowable. Therefore, the Applicants submit that Claims 2, 5-7, 11, 12, 14, 15, 20, 23-25, and 31 are also allowable. The Applicants respectfully request that Claims 2, 5-7, 11, 12, 14, 15, 20, 23-25, and 31 be allowed on appeal.

Claim 3 and 21

Claims 3 and 21 were rejected under 35 U.S.C. § 103(a) over Luizzi. The Applicants submit that Luizzi, as cited in the Office Action, does not teach, suggest, or motivate one skilled in the art to provide each and every element of Claims 3 and 21 of the present application.

Claims 3 and 21 are limited to each zone covering an area of not less than 0.001 cm². The Office Action states that “the area covered by each adhesive zone would be at least the area of an [*sic*] SAP particle, or at least 0.007 cm².” As best understood by the Applicants, the Office Action does not provide any citation to Luizzi for teaching areas of SAP particles of 0.007 cm² or provide any basis for computing the stated area of SAP particles. As indicated in the Office Action, SAP particles having an average particle size

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less than 150 μm are disclosed in Luizzi. The Applicants are unable to discern how the Office Action computed the area of SAP particles from the disclosed average particle size. Furthermore, the Applicants submit that the average particle size is not related to the area of a zone of a liquid absorbent thermoplastic composition. Therefore, Luizzi, as cited in the Office Action, fails to teach, suggest, or motivate one skilled in the art to provide each and every element of Claims 3 and 21 of the present application.

Furthermore, Claims 3 and 21 depend upon Claims 1 and 19, respectively. As discussed above, the Applicants submit that Claims 1 and 19 are allowable. Therefore, the Applicants submit that Claims 3 and 21 are also allowable.

For the reasons set forth above, the Applicants submit that Claims 3 and 21 are allowable. The Applicants respectfully request that Claims 3 and 21 be allowed on appeal.

Claim 9

Claim 9 was rejected under 35 U.S.C. § 103(a) over Luizzi. The Applicants submit that Luizzi, as cited in the Office Action, does not teach, suggest, or motivate one skilled in the art to provide each and every element of Claim 9 of the present application.

Claim 9 is limited to the total absorption capacity of the entire article being at least 1 gram. The Office Action states that Luizzi teaches that the adhesive composition has an absorbent capacity of approximately 10 grams per gram. The absorbent capacity cited in the Office Action is stated in terms of grams per gram. Grams per gram for the adhesive, reported in Luizzi, is not the total absorption capacity of the entire article, as claimed in Claim 9 of the present application. The Office Action does not cite any portion of Luizzi teaching a total absorption capacity of the entire article of at least 1 gram, as claimed in Claim 9 of the present application. Therefore, Luizzi, as cited in the Office Action, fails to teach, suggest, or motivate one skilled in the art to provide each and every element of Claim 9 of the present application.

Furthermore, Claim 9 depends upon Claim 1. As discussed above, the Applicants submit that Claim 1 is allowable. Therefore, the Applicants submit that Claim 9 is also allowable. The Applicants respectfully request that Claim 9 be allowed on appeal.

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SUMMARY

In view of all of the above, it is respectfully submitted that Claims 1-3, 5-7, 9, 11, 12, 14, 15, 19-21, 23-25, and 31 are allowable.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY



Signature

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CLAIMS APPENDIX

1. An absorbent article comprising
 - a topsheet
 - a backsheet
 - and an absorbent element positioned between the topsheet and the backsheet, said absorbent element comprising a fluid storage layer comprising a liquid absorbent thermoplastic composition which comprises a polymeric base material having particles of water-insoluble water swellable absorbent material dispersed therein, the liquid absorbent thermoplastic composition has a total absorption capacity of at least 2 grams per gram and is configured in a plurality of unattached spaced apart zones, wherein immediately adjacent unattached spaced apart zones are spaced apart from each other by a distance between 0.5 mm and 10 mm.
2. The absorbent article according to claim 1 wherein within the absorbent element the liquid absorbent thermoplastic composition represents at least 15% by weight of the total weight of the absorbent element.
3. The absorbent article according to claim 1 wherein each zone covers an area of not less than 0.001 cm².
5. The absorbent article according to claim 1 wherein the zones array composed of said unattached spaced apart zones provides a pattern size having a total surface area of not less than 1 cm².
6. The absorbent article according to claim 1 wherein said unattached spaced apart zones are regular in shape.

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7. The absorbent article according to claim 1 wherein said unattached spaced apart zones are in the form of stripes being rectilinear or curved, dots, circles, squares, rectangles, triangles, lozenges, spirals and their combination.
9. The absorbent article according to claim 1 wherein the total absorption capacity of the entire article is of at least 1 gram.
11. The absorbent article according to claim 1 wherein the storage layer consists of said liquid absorbent thermoplastic composition.
12. The absorbent article according to claim 1 wherein said liquid absorbent thermoplastic composition comprises from about 55% to about 99% by weight of a polymeric base material comprising a thermoplastic polymer or a mixture of thereof, and from about 1% to about 95% by weight of particles of water insoluble water swellable absorbent material.
14. The absorbent article according to claim 1 wherein said absorbent element comprises at least one fluid distribution layer, said fluid distribution layer being sandwiched between the topsheet and the storage layer.
15. The absorbent article according to claim 1 wherein said absorbent element comprises at least one fibrous layer, said fibrous layer underlying the storage layer.
19. An absorbent article comprising
 - a topsheet
 - a backsheet
 - and an absorbent element positioned between the topsheet and the backsheet, said absorbent element comprising a fluid storage layer comprising a liquid absorbent

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thermoplastic composition which comprises a polymeric base material having particles of water-insoluble water swellable absorbent material dispersed therein, the liquid absorbent thermoplastic composition represents at least 15% by weight of the total weight of the absorbent element and is configured in a plurality of unattached spaced apart zones, wherein immediately adjacent unattached spaced apart zones are spaced apart from each other by a distance between 0.5 mm and 10 mm.

20. The absorbent article according to claim 19 wherein the liquid absorbent thermoplastic composition has a total absorption capacity of at least 1 gram per gram.
21. The absorbent article according to claim 19 wherein each zone covers an area of not less than 0.001 cm².
23. The absorbent article according to claim 19 wherein the zones array composed of said unattached spaced apart zones provides a pattern size having total surface area of not less than 1 cm².
24. The absorbent article according to claim 19 wherein said unattached spaced apart zones are regular in shape.
25. The absorbent article according to claim 19 wherein said unattached spaced apart zones are in the form of stripes being rectilinear or curved, dots, circles, squares, rectangles, triangles, lozenges, spirals and their combination.

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31. The absorbent article according to claim 19 wherein said absorbent element comprises at least one fluid distribution layer, said fluid distribution layer being sandwiched between the topsheet and the storage layer.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.